

MINUTES

**APPLE VALLEY TOWN COUNCIL/
SUCCESSOR AGENCY/
PUBLIC FINANCING AUTHORITY**

July 9, 2019

CALL TO ORDER:

Mayor Cusack called to order the regular session of the Apple Valley Town Council and the Successor Agency at 6:30pm

Roll call was taken with the following members present:

Roll Call

Present: Council Members Bishop, Emick; Leon, Mayor Pro Tem Nassif, Mayor Cusack

Absent: None.

OPENING CEREMONIES

PLEDGE OF ALLEGIANCE: Council Member Art Bishop led the pledge of Allegiance

INVOCATION: The invocation was given by Pastor Jonny Lewis, Grace Christian Community Church

PRESENTATIONS: “Do You Have the Right Stuff?!” Recycling Contest Recipient – Presented by Burrtec Waste Management.

Presentation of the Town’s New Customer Service Value Statement – Staff

PUBLIC COMMENTS

Geri Inger, Apple Valley, complained about the dangers of roundabouts and Michigan U-turns.

Marcy Taylor, Apple Valley, thanked the Mayor for his donation to the Apple Valley Legacy Museum’s steak-fry. She also thanked Council Member Emick and Code Enforcement for following up on her complaints.

William Inger, Apple Valley, expressed his concerns about the Treasurer’s report as well as certain warrants and wire transfers presented in the Agenda.

Thurston “Smitty” Smith, Apple Valley, invited everyone to participate in the upcoming Victor Valley Bicycle Tour, and thanked the Sheriff’s Department for their sponsorship.

COUNCILMEMBER COMMITTEE/COMMISSION PARTICIPATION

Council Member Bishop commented on committee meetings and events that he attended.

Council Member Leon commented on committee meetings and events that she attended.

Council Member Emick commented on events that he attended.

Mayor Pro Tem Nassif commented on committee meetings and events that he attended.

Mayor Cusack commented on committee meetings and events that he attended.

TOWN COUNCIL ANNOUNCEMENTS

Suggested items for future agenda:

Time, Date & Place for Next Town Council Regular or Special Meeting:

- A. Regular Meeting – July 23, 2019 – Council Chamber
Regular Session at 6:30 p.m.**

TOWN COUNCIL CONSENT AGENDA

Mayor Cusack announced that there was an urgent need to add an item to the agenda that was brought to the attention of the Town after the agenda was posted. The item is to Approve Entering Into a Long-Term Renewable Energy Contract with Mountain View III, LLC

Motion by Council Member Bishop and seconded by Council Member Leon, that there was an urgent need to add an item to the agenda that was brought to the attention of the Town after the agenda was posted. The item is #10A - Approve Entering Into a Long-Term Renewable Energy Contract with Mountain View III, LLC to Business of the Council.

Vote: Motion carried 5-0-0-0

Yes: Council Members Bishop, Emick, Leon, Mayor Pro Tem Nassif, Mayor Cusack.

Absent: None

Kiel E Mangerino, Deputy Town Clerk, read the following disclosure statement:

Mayor Pro Tem Nassif has a remote interest in specific warrants on tonight's Commercial Warrants dealing with NAPA Auto Parts or High Desert Auto Supply for the Town of Apple Valley as the owner of these businesses. Therefore, he will be abstaining from voting on the warrants for NAPA Auto Parts and High Desert Auto Supply listed under Agenda Item Number 2. In addition, due to his interest in both businesses, Mayor Pro Tem Nassif will also be abstaining from voting on specific warrants listed under Agenda Item Number 2 because these entities are considered sources of income to his businesses. A list of business entities for Mayor Pro Tem Nassif is maintained on file in the Town Clerk's Office and available for review at the dais.

Mayor Pro Tem Nassif confirmed that he would be abstaining from voting on these warrants.

Mayor Cusack also has a remote interest in specific warrants on tonight's Commercial Warrants dealing with Apple Valley Communications, AV Tech Services or AVCOM Services for the Town of Apple Valley as the owner of these businesses. Therefore, he too will be abstaining from voting on the warrants for Apple Valley Communications, AV Tech Services and AVCOM Services listed under Agenda Item Number 2. In addition, due to his interest in these businesses, Mayor Cusack

will be abstaining from voting on specific warrants listed under Agenda Item Number 2 because these entities are considered sources of income to his businesses. A list of business entities for Mayor Cusack is maintained on file in the Town Clerk's Office and available for review at the dais.

Mayor Cusack confirmed that he would be abstaining from voting on these warrants.

MOTION

Motion by Council Member Emick, seconded by Council Member Leon, to approve the Consent Calendar items numbered 1-8 respectfully.

Vote: Motion carried 5-0-0-0

Yes: Council Members Bishop, Emick, Leon, Mayor Pro Tem Nassif, Mayor Cusack.

Absent: None

Mayor Pro Tem Nassif and Mayor Cusack abstained from voting on Agenda Item Number 2.

1. **Approval of Minutes of the Town Council**
 - A. **Regular Meeting – June 25, 2019**
Recommendation:
Approval of the subject minutes as part of the consent agenda.

2. **June 2019 Commercial Warrants and Wire Transfers Schedule**
Recommendation:
That the Town Council ratify and file the Commercial Warrants and Wire Transfer Schedules as presented.

3. **June 2019 Payroll/Benefits Warrants Schedule**
Recommendation:
That the Town Council receive, ratify and file the Payroll/Benefits schedule.

4. **Acceptance of Work for the Hitt Road Drainage Improvements Project No. 2018-08**
Recommendation:
That the Town Council:
 - A. Accept the work completed as part of the Hitt Road Drainage Improvements Project No. 2018-08 for a total contract cost of \$41,996.00.
 - B. Direct the Town Clerk to file the Notice of Completion for the contract work.
 - C. Direct the Finance Director to release the retained funds 30 days after the Notice of Completion has been filed, provided no claims are filed against the contractor.

5. **Acceptance of Work for Resurfacing 2019-01 – Project No. 2018-07**
Recommendation:
That the Town Council:
 - A. Accept the work completed as part of the Resurfacing 2109-07 for a total contract cost of \$1,449,286.50.
 - B. Direct the Town Clerk to file the Notice of Completion for the contract work.
 - C. Direct the Finance Director to release the retained funds 30 days after the Notice of Completion has been filed, provided no claims are filed against the contractor.

6. **Apple Valley Desert Water Reuse – Project 2019-01**
Recommendation:

Award a contract to Christensen Brothers General Engineering, Inc for the Apple Valley Desert Water Reuse – Project 2019-01 subject to “Approval as to Form” by the Town Attorney and “Approval as to Content” by the Town Manager.

7. Resolution No. 2019-19, A Resolution of the Town Council of the Town of Apple Valley, California, Approving the Levy and Collection of Assessments for Fiscal Year 2019-20 Within the Apple Valley Village Property and Business Improvement District (PBID)

Recommendation:

That the Town Council adopt Resolution No. 2019-19, approving the levy and collection of Assessments for Fiscal Year 2019-20 within the Apple Valley Village Property and Business Improvement District.

8. FY 2019-20 Budget of the Apple Valley Village Property and Business Improvement District (PBID) Association

Recommendation:

That the Town Council approve the Fiscal Year 2019-20 Budget of the Apple Valley Village Property and Business Improvement District Association.

PUBLIC HEARINGS

9. Adopt Resolution 2019-20, A Resolution of the Town Council of the Town of Apple Valley, California, to Record Delinquent Animal Control Fees, Utility Fees and Costs and Code Enforcement Fees Against Real Property Located in the Town of Apple Valley and Directing that Said Assessments Constitute a Lien Upon Said Properties

Mayor Cusack opened the public hearing at 7:18 p.m.

Sydney Harris, Finance Director presented the staff report as filed with the Town Clerk.

Discussion ensued about citizens ability to still pay their bill within the specified time period to avoid a lien being placed on their properties.

Mayor Cusack closed the public hearing at 7:20 p.m.

MOTION

Motion by Mayor Pro Tem Nassif, seconded by Council Member Emick, to adopt Resolution No. 2019-20 confirming delinquent animal control, utility and code enforcement fees and costs against real property located in the Town, and directing that said assessments constitute a lien upon said properties.

Vote: Motion carried 5-0-0-0

Yes: Council Members Bishop, Emick, Leon, Mayor Pro Tem Nassif, Mayor Cusack.

Absent: None

10. An Ordinance of the Town Council of the Town of Apple Valley, California Section 2.04.140 to Chapter 2.04 of Title 2 of the Town of Apple Valley Municipal Code

Establishing By-District Elections, Defining District Boundaries, and Scheduling Elections Within the Districts

Mayor Cusack opened the public hearing at 7:21 p.m.

John Brown, Town Attorney presented the staff report as filed with the Town Clerk.

Discussion ensued on the blank area of the district map which is a county area and not part of the Town.

Further discussion ensued on the Council Members concerns regarding the topographic features shown on the map.

Mayor Cusack closed the public hearing at 7:30 p.m.

It was the consensus of the Town Council to select the Olive Map as the district map for the Town of Apple Valley.

MOTION

Motion by Mayor Pro Tem Nassif, seconded by Council Member Bishop, to read by title only, and waive further reading of Ordinance No. 511, an Ordinance of the Town Council of the Town of Apple Valley, California Section 2.04.140 to Chapter 2.04 of Title 2 of the Town of Apple Valley Municipal Code Establishing By-District Elections, defining District Boundaries, and scheduling Elections within the Districts.

Vote: Motion carried 5-0-0-0

Yes: Council Members Bishop, Emick, Leon, Mayor Pro Tem Nassif, Mayor Cusack.

Absent: None

Kiel Mangerino, Deputy Town Clerk, read the title to Ordinance No. 511.

MOTION

Motion by Mayor Pro Tem Nassif, seconded by Council Member Bishop, to introduce Ordinance No. 511.

Vote: Motion carried 5-0-0-0

Yes: Council Members Bishop, Emick, Leon, Mayor Pro Tem Nassif, Mayor Cusack.

Absent: None

BUSINESS OF THE COUNCIL

10A. Approve Entering Into a Long-Term Renewable Energy Contract with Mountain View III, LLC

Doug Robertson, Town Manager, explained the confidentiality of the contract and the necessity for redaction on the document.

Brian Goldstein, Consultant, presented the staff report as filed with the Town Clerk.

Council Member Bishop expressed his readiness for long term green energy contracts.

Discussion ensued regarding the resilience of the energy grid in light of the recent earthquakes.

William Inger, Apple Valley, expressed his concern that the contract is redacted, and that this Item was a last-minute addition to the Town Council Agenda.

MOTION

Motion by Council Member Emick, seconded by Council Member Leon to approve entering into a long-term renewable energy contract with Mountain View III, LLC for Apple Valley Choice Energy.

Vote: Motion carried 5-0-0-0

Yes: Council Members Bishop, Emick, Leon, Mayor Pro Tem Nassif, Mayor Cusack.

Absent: None

REPORTS, REQUESTS AND COMMUNICATIONS

NONE

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

DEPARTMENTAL REPORTS AND BUSINESS

Doug Robertson, Town Manager, reminded those in attendance that the Sunset concert series is going strong, and that Southern Spirit is playing Thursday July 11, 2019.

CLOSED SESSION

11. Closed Session

Mayor Cusack adjourned the meeting at 7:40 p.m. to Closed Session to discuss the following:

- A. Conference with Legal Counsel – Anticipated Litigation – Significant exposure to litigation pursuant to Paragraph (2) of subdivision (d) of Section 54956.9: one or more potential cases.
- B. Conference with Legal Counsel – Anticipated Litigation – Initiation of litigation pursuant to Paragraph (4) of subdivision (d) of Section 54956.9: one or more potential cases.
- C. Conference with Real Property Negotiators – Pursuant to Government Code Section 54956.8. Property: Apple Valley Ranchos Water Company (now Liberty Utilities (Apple Valley Ranchos Water) Corp.); Authority Negotiator: Town Manager; Negotiating

Parties: Liberty Utilities Co., Liberty WWH, Inc., Algonquin Power & Utilities Corp., Park Water Company, Western Water Holdings LLC, Tony Penna, General Manager, Apple Valley Ranchos Water Company; Under Negotiation: Price and Terms of Payment.

- D. Conference with Legal Counsel – Existing Litigation – Pursuant to Paragraph (1) of subdivision (d) of Government Code Section 54956.9, Case No.: CIVDS1600180 – Town of Apple Valley vs. Apple Valley Ranchos Water Company Et Al.
- E. Negotiations with Real Property Negotiator – Parcel Numbers: 0440-096-17 and 18, Apple Valley; Negotiating Parties: Interested parties; Town Negotiator(s) -Town Manager. Negotiations involve both price and terms.

Upon returning from Closed Session at 8:00p.m., Mayor Cusack announced that there was no reportable action taken.

ADJOURNMENT

Motion by Council Member Emick, seconded by Mayor Pro Tem Nassif and unanimously carried, to adjourn the meeting of the Apple Valley Town Council at 8:01 p.m.

Larry Cusack, Mayor

Kiel Mangerino, Deputy Town Clerk